

1 HOUSE BILL NO. 242

2 INTRODUCED BY C. HARRIS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING POSSESSION OF AN UNSEALED ALCOHOLIC
5 BEVERAGE CONTAINER IN THE PASSENGER AREA OF A MOTOR VEHICLE ON A STREET, ROAD, OR
6 HIGHWAY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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10 **NEW SECTION. Section 1. Possession of unsealed alcoholic beverage container in motor vehicle**
11 **passenger area.** (1) A person commits the offense of possession of an unsealed alcoholic beverage container
12 in the passenger area of a motor vehicle if the person knowingly possesses in the passenger area of a motor
13 vehicle an unsealed can, bottle, glass, cup, jar, or other receptacle containing more than 1/6 ounce of an
14 alcoholic beverage while the motor vehicle is on a street, road, or highway, including a shoulder, open to the
15 public.

16 (2) A person convicted under this section shall be incarcerated for not more than 10 days and fined an
17 amount not less than \$100 or more than \$500.

18 (3) (a) The sentencing judge shall order a person convicted under this section to complete a chemical
19 dependency assessment and education course approved by the department of public health and human services
20 and conducted by a licensed addiction counselor. The court shall also order chemical dependency treatment
21 for the person upon a finding of chemical dependency made by a licensed addiction counselor pursuant to
22 diagnosis and patient placement rules adopted by the department of public health and human services. A person
23 ordered to undergo treatment may attend a treatment program of the person's choice as long as the treatment
24 services are provided by a licensed addiction counselor. If the court finds that the person is able to do so, the
25 person shall pay the entire cost of the assessment, education course, and chemical dependency treatment.

26 (b) The assessment must describe the person's level of addiction, if any, and contain a recommendation
27 as to education, treatment, or both. A person who disagrees with the initial assessment may, at the person's
28 cost, obtain a second assessment provided by a licensed addiction counselor or a program approved by the
29 department of public health and human services.

30 (c) Treatment must be at a level appropriate to the person's alcohol or drug problem, or both, as

1 determined by a licensed addiction counselor pursuant to diagnosis and patient placement rules adopted by the
2 department of public health and human services. Upon determination, the court shall order the person's
3 appropriate level of treatment. If more than one counselor makes a determination, the court shall order an
4 appropriate level of treatment based upon the determination of one of the counselors.

5 (d) Each counselor providing education or treatment shall, at the commencement of the education or
6 treatment, notify the court that the person has been enrolled in a chemical dependency education course or
7 treatment program. If the person fails to attend the education course or treatment program, the counselor shall
8 notify the court of the failure.

9 (e) A court or counselor may not require attendance at a self-help program other than at an open
10 meeting as that term is defined by the self-help program. A person may voluntarily participate in self-help
11 programs.

12 (4) As used in this section, the following definitions apply:

13 (a) "Alcoholic beverage" means a compound produced for human consumption as a drink that contains
14 more than 0.5% of alcohol by volume.

15 (b) "Motor vehicle" means a vehicle propelled by its own power and designed or used to transport
16 persons or property upon the highways of this state and includes a snowmobile as defined in 23-2-601.

17 (c) (i) "Passenger area" means the area of a motor vehicle that is designed to seat the driver or the
18 driver and one or more passengers. The term includes any area readily accessible to the driver or a passenger,
19 including a glove box, the area behind the seat of a motor vehicle that does not have a rear seat or seats, and
20 the cargo area at the rear of a sport utility vehicle or station wagon or similar motor vehicle.

21 (ii) The term does not include:

22 (A) the passenger area of a motor vehicle that comes with a driver and is rented from a licensed
23 business to transport passengers, including but not limited to a taxi, limousine, or bus; or

24 (B) the living quarters of a camper as defined in 61-1-129 or a motor home as defined in 61-1-130.

25 (d) "Shoulder" means the area contiguous to the travel lanes of a road or highway, which has been
26 altered to provide lateral support to the road or highway, or the area within 25 feet of the outside edge of the
27 travel lanes of a road or highway, whichever is greater. Shoulder also means a median or other area between
28 the travel lanes of a street, road, or highway that is not open to travel.

29 (e) "Unsealed" includes but is not limited to an alcoholic beverage:

30 (i) that was put under pressure when it was placed in the receptacle and all or part of the pressure has

1 been released;

2 (ii) that was not put under pressure when it was placed in the receptacle and that:

3 (A) has a broken metallic, plastic, or other wrapping around the opening of the receptacle; or

4 (B) is contained in a receptacle that never had a metallic, plastic, or other wrapping around the opening
5 of the receptacle and the receptacle is not full; or

6 (iii) with a tax stamp placed over the opening that has been broken.

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8 **NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an
9 integral part of Title 61, chapter 8, and the provisions of Title 61 apply to [section 1].

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11 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

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